

A shortened statutory period for response of one (1) month was set for response to the Office Action. Accordingly, this response is timely filed.

REMARKS

Applicants object to the restriction as being untimely, out of sequence, unnecessary, and inconsistent with the way similar claims were treated in predecessor patent no. 5,725,594. Examination on the merits of the present application is already underway. Thus, it is highly unusual to enter a restriction requirement at this time, after an examination on the merits has taken place. Moreover, there are only four (4) claims in the invention of Group II, which do not appear to create a meaningful burden on the Patent Office to complete examination of those claims with the other claims in the present application. Furthermore, in predecessor patent no. 5,725,594, both product and process claims were examined, making the present restriction requirement inconsistent with established practice.

In order to be responsive to the election or restriction requirement set forth in the Office Action, applicants hereby elect the claims of invention I, that is, claims 1-20, and 24-45 drawn to a prosthetic component. Applicants note that claim 24 is drawn to a prosthetic component despite having been grouped with the method

claims of invention II in the Office Action. Accordingly, claim 24 is believed to belong with the product claims of invention I.

The election is made with traverse, for the following reasons: The key aspects of claims 21-23 and 46, are related to the key aspects of claims 1-20, and 24-45. Applicants respectfully submit that claims 21-23 and 46, though in method form, are nonetheless sufficiently similar to merit examination in the same application, as they share dominant elements. Examination of all claims 1-46 in the same application would not pose a serious burden under M.P.E.P. § 803 because there is commonality of dominant elements between the claims of inventions I and II. In a balance of the equities, the burden and cost to applicants of prosecuting separate applications to inventions having common dominant elements appears to outweigh the burden on the Examiner to search and examine the present application as a unitary invention. Applicants therefore respectfully request that the election or restriction requirement be withdrawn.

In view of the foregoing, applicants believe that claims 1-46 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of this Response, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Response to Deposit Account No. 50-0836.

DATED this 12 day of February, 2004.

Respectfully submitted,



Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, UT 84091
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

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